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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,848	02/12/2004	Olivier Braun	Serie 6104	5892

7590 01/26/2005

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EXAMINER
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PEZZUTO, HELEN LEE

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/777,848

Applicant(s)

BRAUN ET AL.

Examiner

Helen L. Pezzuto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-79 is/are pending in the application.
- 4a) Of the above claim(s) 16-36 and 50-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-49, 60, 62-65, 71 and 74-79 is/are rejected.
- 7) ☒ Claim(s) 61, 66-70, 72 and 73 is/are objected to.
- 8) ☒ Claim(s) 16-59 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/6/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election of Group II, claims 37-49 in the reply filed on 12/6/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The requirement is still deemed proper and is therefore made FINAL.

Claims 17-36, 50-59 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/6/04.

Applicant's addition of claims 60-69 filed in conjunction with the response on 12/6/04 is hereby acknowledged. Currently, claims 37-49, and 60-79 are under consideration in this application.

***Specification***

2. The abstract of the disclosure is objected to because it should be on a separate page. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

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3. The following is a quotation of the second paragraph of 35

U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 40, 44, and 73 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 40, line 2, which emulsifying agent referring back to claim 37 do applicants intend? Water-in-oil, oil-in-water or a third emulsifying agent?

In claim 44, the recited 50% to 80% by weight of oil-in-water emulsifying agent is outside the range of the cationic polyelectrolyte composition, wherein the oil-in-water emulsifying agent is a part of. Please clarify.

In claim 73, the recited lower limit of 35% to about 91% neutral monomer is outside that in claim 71. Please clarify.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the

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differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 37-49, 60, 62-65, 71, 74-79 are rejected under 35

U.S.C. 103(a) as being unpatentable over Chang et al. (US-003).

US 6,454,003 to Chang et al. discloses a microparticle composition as an inverse emulsion, comprising cationic monomer such as DADMAC, non-ionic monomer such as N-vinylpyrrolidone and acrylamide, an oily phase, an aqueous phase, a surfactant mixture, a crosslinking monomer (col. 4, line 25 to col. 5, line 3; col. 6, lines 12-52, line 54 to col. 7, line 31). Prior art further suggests the inclusion of a labile crosslinking monomer which meets the terms of the instant nonionic surfactant monomer represented in formula (I') (i.e. a ethoxylated di(meth)acrylate) (col. 5, line 49 to col. 6, line 11). Once the general condition of a claim is disclosed in the prior art, one skilled in the art would envisage the optimum proportions of the individual components via routine experimentation. In other words, the optimization of known result to form a self-reversible invert latex composition with the disclosed variables is within the

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purview of one skill in the art, absent a showing of unusual or unexpected results.

***Allowable Subject Matter***

7. Claims 61, 66-70, 72-73 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior art of record, do not suggest the details of the copolymerized nonionic surfactant monomer, and a non-zero amount of N-[2-hydroxy-1,1-bis(hydroxymethyl)ethyl]propenamide monomer in the context of a cationic polyelectrolyte composition within a self-reversible invert latex.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

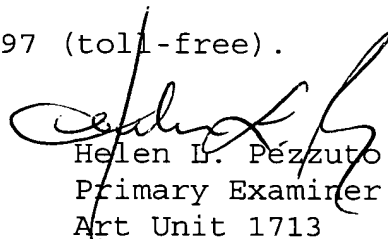
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen L. Pezzuto whose telephone number is (571) 272-1108. The examiner can normally be reached on 8 AM to 4 PM, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization

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where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Helen L. Pezzuto  
Primary Examiner  
Art Unit 1713

hlp